

**Title 1—OFFICE OF
ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested
Cases Under Statutory Jurisdiction,
Except Cases [Under Section 621.040, RSMo]
Where Procedure Is Otherwise Provided For By Law**

1 CSR 15-3.350 Complaints

PURPOSE: This amendment eliminates the requirement for filing multiple copies of a complaint when it is filed electronically, mirrors statutory language regarding filing fees for franchising cases under chapter 407, RSMo, and clarifies the requirements for a complaint filed under chapter 36, 105 or 162, RSMo.

(1) In General. The commission shall construe the provisions of this rule liberally if petitioner has prepared the complaint without legal counsel.

(A) All complaints shall be in writing.

(B) Petitioner shall include in the complaint:

1. The full name, address, and telephone number of—

A. Petitioner; and

B. Any attorney representing petitioner;

2. Suitable space in the caption for the commission to affix a case number; and

3. As far as practical, facts in numbered paragraphs stating the relief sought and the reason for granting it; however, the failure to include facts in numbered paragraphs shall not be a reason for involuntary dismissal of a complaint.

(C) Petitioner or petitioner's legal counsel shall sign the complaint.

(D) Petitioner shall file the original of the complaint at the commission's office with sufficient copies for all parties, **unless filing the complaint via fax or e-mail in accordance with 1 CSR 15-3.290.**

(2) Specific Cases. In addition to the other requirements of this rule—

(A) An agency's complaint shall set forth—

1. The full name, address, and telephone number of any person whom petitioner names as a respondent;

2. *[Any]* **A description of any** licenses the licensee holds from the agency and their status;

3. Any fact supporting the relief that the agency seeks, including any conduct that a licensee has committed that is cause for discipline, with sufficient specificity to enable the licensee to address the charge at hearing; and

4. Any provision of law that allows discipline for such facts.

(B) A complaint by any person other than an agency—

1. Shall include a copy of any notice of the action of which petitioner seeks review; and

2. May include a motion for stay.

(C) An applicant's complaint shall, in addition to the other requirements of this section, set forth facts that show that the applicant is entitled to be licensed or examined for licensure.

(D) In a case arising pursuant to Chapter 407, RSMo, including cases relating to the protest of an action taken by a motor vehicle, motorcycle, or all-terrain vehicle manufacturer, distributor, or representative pursuant to a franchise agreement, the petition shall include a filing fee in the **amount equal to the filing fee of the circuit court of Cole County pursuant to 621.053** *[of one hundred five dollars (\$105)]*.

(E) In a case arising pursuant to section **105.055**, 36.280, 36.370, 36.380, or 36.390, RSMo, the petition shall include a copy of any notice of the action of which the employee seeks review and shall state—

1. The action being appealed; and
2. In the case of a dismissal, suspension for greater than five (5) days, or demotion, the reason the employee alleges that the dismissal, suspension, or demotion was—
 - A. For political reasons;
 - B. For religious reasons;
 - C. For racial reasons; *[or]*
 - D. Not **in the interest of efficient administration and that** *[for]* the good of the service was **not** served, or

E. For reasons prohibited by 105.055.

The petitioner may, but is not required to, utilize a form provided by the commission **on its website** for purposes of appeals covered by this subsection.

(3) Notice.

- (A) The commission shall serve notice of the complaint on the respondent and the petitioner.
- (B) Except in cases arising under section 407.822, RSMo, the commission shall serve a copy of the complaint on the respondent.

(4) Amended Complaint

(A) Petitioner may amend the complaint without the commission's leave any time before the respondent serves a responsive pleading. After the respondent serves a responsive pleading, petitioner shall amend the complaint only with the commission's leave. The motion shall include the amended complaint proposed to be filed. *[Petitioner shall not amend the complaint less than twenty (20) days before the hearing without respondent's consent.]*

(B) For cases filed under section 162.961, RSMo (IDEA), a party may amend its due process complaint only if:

(1) The other party consents in writing to the amendment and the other party is given the opportunity to resolve the due process complaint through a meeting held pursuant to 34 CFR 300.510; or

(2) The commission grants permission. Pursuant to 34 CFR 300.508(d)(3)(ii), no leave to amend shall be granted by the commission less than five (5) days before the due process hearing is scheduled to begin.

(5) The provisions of this rule, except subsection (1)(D) and section (3), apply to amended complaints.

AUTHORITY: section 621.035, RSMo 2000 and sections 621.053 and 621.198, RSMo Supp. 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 16, 2003, effective Nov. 30, 2003. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed May 30, 2006, effective Nov. 30, 2006. Amended: Filed May 31, 2007, effective Nov. 30, 2007. Amended: Filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expired March 7, 2011. Amended: Filed Aug. 30, 2010, effective Feb. 28, 2011. Amended: Filed _____, 2016, effective _____, _____.*

**Original authority: 621.035, RSMo 1978; 621.053, RSMo 1997, amended 2001; and 621.198, RSMo 1965, amended 1978, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.